

## Public consultation webinars on the EIB Group's Environmental and Social Framework

### Webinar on the **EIB's Approach to Human Rights**

Monday 28 June 2021

#### Summary of discussions

##### Objective

The European Investment Bank (EIB) is hosting a series of 13 webinars in the context of the public consultation on the EIB Group Environmental and Social Sustainability Framework (ESSF), open from 3 June to 6 August 2021. The overall objective of the webinars is to facilitate dialogue with stakeholders on the EIB Group Environmental and Social Policy (hereinafter "the Policy") and Standards.

The fourth webinar focused on the EIB's approach to human rights.

##### Introduction

The EIB welcomed the 81 webinar attendees (56 external, 25 EIB Group staff) and explained the webinar housekeeping rules and arrangements to ensure an effective discussion, noting that participant statements would not be attributed to individuals or organisations in the summary report and any comments made during the discussion would not be considered as formal contributions. The EIB invited participants to submit their written contributions to the public consultation by 6 August 2021 on the public consultation [website](#).

The EIB delivered a [presentation](#) about the EIB's approach to human rights. The floor then opened for discussion.

##### Discussion

The first question concerned **how the EIB's current approach to human rights differed** now from previously. The participant advocated for a human rights strategy and action plan, as well as a commitment to perform an ex-ante human rights risk assessment. If human rights risks are identified, the promoter should be required to conduct a Human Rights Impact Assessment (HRIA). The EIB explained that the revision of Standards has sought to reinforce and clarify the language around human rights in the Standards and the Policy, and that CSOs were welcome to make any suggestions in writing in order to further clarify our requirements. The EIB explained the screening process to assess environmental and social impacts and risks, including human rights impacts and risks.

A participant asked how the EIB verifies that **vulnerable persons and Indigenous Peoples are informed about upcoming projects**. What implications would the adopted proposal "EU Directive on Mandatory Human Rights, Environmental and Good Governance Due Diligence" have for the EIB? EIB explained that the revision of the EIB Standards strengthen the current approach to Human Rights, and further amendments could be considered once the legislation is final. An environmental and social assessment with a human rights lens should be able to identify stakeholders affected by the project. The responsibility to inform vulnerable groups and Indigenous People lies with the promoter. When EIB reviews and sees that the information is inadequate, the EIB can intervene to ensure that information provided to vulnerable groups and Indigenous Peoples is complemented.

Another participant asked if the EIB included a clear **statement of zero tolerance for reprisals** in the Policy. The EIB confirmed that the statement of zero tolerance for reprisals is included in the Policy.

A participant enquired as to the EIB's timeframe for doing a proper **due diligence**, and how **consultants/experts** are **selected**. The EIB explained that the timeframe of the due diligence depends on the location, size and nature of the project. A chapter in the Policy indicates how EIB carries out due diligence and monitoring, and this is complemented with internal procedures. On the risk categorization, for all projects in the EU that are considered annex I are subject to an Environmental Impact Assessment (EIA). For the rest, the EIB requires that projects are screened on environmental and social criteria. If salient Human rights risks are identified through our screening, additional studies or assessments are carried out, as required. Any assessment of environmental impacts and risks is made publicly available. The outcome of stakeholder engagements is disclosed in the environmental and social data sheet after Board approval. The EIB further explained that consultants are recruited on a framework contract, but if expertise in specific geographies outside the framework contract is needed, the EIB tenders for suitable resources directly.

A participant raised the concern that conducting the **consultation in English with French translation** would exclude stakeholders such as CSOs and local communities from the Middle East and North Africa region. The EIB explained that the Bank has made an effort in terms of expanding the languages that are used for public consultations, and is considering how to conduct consultations in more languages. Written submissions to the consultation can be made in languages other than English and French.

There was a request to share concrete **examples of where the language and requirements in the Standards have been reinforced**. EIB provided examples such as the language on reprisals, on gender-based violence, requirements regarding supply chain workers and the emphasis on human rights.

A participant asked whether the EIB could require the promoter to **carry out a stand-alone Human Rights Impact Assessment**. The EIB panel explained that this assessment has begun to be used, but there are challenges such as finding practitioners with the capacity to work independently in countries where human right impact assessment are required. On most occasions, consultants refuse as they fear retaliation to them or to their families. The EIB would welcome suggestions on how to tackle this issue. A participant suggested that reprisal against consultants is a clear sign of retaliation risks against vulnerable communities and it should be a red flag against financing a specific project.

A participant asked what a **'human rights responsive due diligence** process' means and what methodology is used, stating that this was not clear from the language used in the Standards. The EIB panel responded that having a human rights lens/perspective when reviewing the social impacts or risks identified may enable to identify specific human rights issues.

A follow-up question was raised as to whether the EIB staff 'viewing' risks through a human rights 'lens' had expertise, and how many **human rights experts** the EIB has. The EIB panel explained that there is strong expertise in the bank, with social development and human rights experience and expertise as well as a comprehensive coverage of public/private sector and countries/regions in the world. If needed, the EIB draws on additional expertise from outside the Bank. The EIB is rolling out capacity building and awareness raising within the Bank to train on human right issues.

Regarding the EIB's human rights capacity, a participant commented that it was a gap that **EIB** only commits not to finance projects with adverse impacts on human rights "to the best of its knowledge", and asked if the same approach was used for environmental and climate change commitments. The EIB explained that the Bank is strengthening the capacity on human right aspects, but human right impacts do overlap with environmental and social impacts. Human rights impacts should be addressed with the correct application of the Standards.

A participant enquired as to whether the Bank was in dialogue with other multilaterals **to coordinate strategy on vulnerable groups such as LGBT and persons with disabilities**. The EIB panel noted the

importance of this topic, and added that there is a working group on disability and collaboration with MDBs on LGBT inclusion. This would be discussed further in Standard 7 on vulnerable groups.

A participant asked how the **EIB defined remedy**. The panel explained that for the human rights mitigation hierarchy, the EIB takes into account the principle of remedy with focus on materiality to the risk to the affected persons to be acknowledged as rights holders.

A participant asked for the number of members of the public and employees that were participants in the webinar today. EIB explained that it would provide aggregate figures in the summaries.

One participant put forward several questions. Will the draft also cover a way to protect affected vulnerable people when they make a complaint? Will the EIB Group Complaints Mechanism (EIB-CM) be open **for more complaints and not only look at 'maladministration'**? What are the main **recommendations to have come out** of the public consultation on **the new EIB Group Transparency Policy (EIB-TP)**? The EIB noted that the public consultation process of the EIB-TP is still ongoing. The EIB would publish an issues matrix summarising all comments received and the EIB's reasoned responses. In terms of the EIB-CM, the Policy was revised in 2017 and included wording about having zero tolerance against reprisals for people who make a complaint. The EIB-CM is open to accept other types of complaints and is not limited to maladministration.

A participant commented that many CSOs have contacted the EIB in the past about its due diligence. This part, which is covered by **the EIB Environmental and Social Practices and Procedures**, however, would not be for review. What is the point of carrying out this consultation process if the EIB due diligence cannot be discussed. The EIB explained that they are not part of the consultation as they are still being drafted to align with the new proposed draft Framework. In addition, the EIB does not consult on internal procedures. However, in the Policy, chapter 4 covers the EIB's implementing framework which explains the roles and responsibilities between parties. The EIB would reflect on this part of the Policy to see if additional information or clarification was necessary and where it would be most adequate.

A participant asked if the EIB had conducted any evaluation of the human rights impacts of its past operations. The participant believed that a **study had been commissioned, by the EIB but** this study had not been disclosed. The participant asked why the study was confidential and what were the lessons learnt. The EIB explained that the study carried out by the Danish Institute for Human Rights had not been on past operations, but on the Standards and procedures. The report alongside overall lessons learnt (not just from the report but also projects, complaints etc.) have been used to inform the revision of the Policy and Standards and would also serve as a basis for the revision of the EIB's internal procedures.

### Concluding remarks

The EIB thanked participants for their constructive participation, which allows the review of the ESSF to benefit from the expertise of a wide range of individuals and organisations. The EIB reiterated the invitation to submit written contributions by 6 August 2021 on the public consultation [website](#). After this date, the EIB will start publishing the written contributions received. 15 working days ahead of the Board of Directors meeting during which the revised ESSF will be discussed, a draft revised EIB-ESSF, reasoned responses to the contributions and a draft consultation report will also be published.